

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF SOUTH CENTRAL BELL)
TELEPHONE COMPANY TO ESTABLISH PULSELINK)
PUBLIC PACKET SWITCHING NETWORK SERVICE) CASE NO. 10321
AND DATA TRANSPORT ACCESS CHANNEL SERVICE)

O R D E R

Several items are pending the Commission's decision in this proceeding. During the March 28, 1989 depositions, multiple questions and objections were certified to the Commission. All of the questions concerned whether the witness of MCI Telecommunications Corporation ("MCI"), Don Wood, is qualified to adopt MCI's prior witness's testimony and to testify in this proceeding. Counsel for South Central Bell Telephone Company ("South Central Bell") asserted that Mr. Wood was unqualified because of his prior employment by BellSouth, contending that Mr. Wood obtained proprietary information concerning South Central Bell's costing methodology.

The Commission, having reviewed the certified questions and objections and being sufficiently advised, is of the opinion and finds that MCI's objection should be sustained. Mr. Wood should not be required to answer questions, for the purpose of this proceeding, concerning his prior employment with BellSouth. The Commission finds that Mr. Wood is qualified to address financial, economic analysis and cost analysis matters. Accordingly, Mr.

Wood is qualified to adopt the prefiled testimony of a previous MCI witness and answer questions concerning that testimony. The Commission makes no finding or conclusion concerning the employment contract Mr. Wood had with BellSouth and whether that contract has been breached. Additionally, South Central Bell's failure to represent during the deposition that Mr. Wood's responses to questions concerning his employment with BellSouth would not be used in another proceeding or forum had no impact on the Commission's decision.

On April 6, 1989, MCI filed a motion which it styled Motion of MCI to Complete the Investigation. In its motion MCI requests that the Commission compel South Central Bell to produce certain information concerning cost factors used to calculate annual operating and capital related costs. MCI also seeks fundamental network information including network components cost, revenue accounting, and design requirements. MCI requests that the Commission compel South Central Bell to produce two named persons for the purpose of deposition.

On April 17, 1989, South Central Bell filed its response to MCI's motion and filed a motion to dismiss MCI's intervention or, in the alternative, to strike the testimony of the MCI witness. South Central Bell contends that MCI has received extensive information and has had ample opportunity to address its concerns about contribution and cost subsidization. Further, South Central Bell asserts that it has provided to MCI all information which the Commission has ordered MCI to receive. Further, South Central

Bell asserts that MCI's conduct concerning its witness and its extensive requests for information and depositions warrant the dismissal of MCI's intervention.

The Commission, having considered MCI's motion to complete the investigation and South Central Bell's responsive motion and having been sufficiently advised, is of the opinion and finds that MCI's motion to complete the investigation should be denied. MCI has had sufficient opportunity to pursue its concerns during this proceeding. MCI has actively participated in discovery including the deposition of witnesses. Accordingly, this motion for further discovery and depositions is untimely. South Central Bell's motion to dismiss MCI's intervention or, in the alternative, to strike the testimony of MCI's witness is also denied. As stated above, the Commission will allow MCI's witness, Mr. Wood, to adopt the previously filed testimony. MCI has actively participated in this extensive proceeding and the Commission is of the opinion that dismissing its intervention would be inappropriate.

On April 17, 1989, MCI filed a motion to compel South Central Bell to file a fully allocated, embedded cost-of-service study to support the PulseLink tariff. In support of its motion, MCI states that South Central Bell has filed a long-run incremental cost study but has declined to file a fully allocated, embedded cost-of-service study. MCI further states that the Commission has recently ordered South Central Bell to file fully allocated,

embedded cost-of-service studies in future tariff filings.¹ On April 19, 1989, South Central Bell filed its response to MCI's motion stating that the Commission's requirement of fully allocated, embedded cost-of-service studies were for future tariff filings involving new or changed rates. Further, South Central Bell asserts that the testimony in this proceeding has demonstrated that it is not practical or appropriate to conduct a fully allocated, embedded cost study for PulseLink service.

The Commission, having considered MCI's motion to compel and South Central Bell's response and being sufficiently advised, is of the opinion and finds that the motion should be denied. The Commission's Orders in Case No. 10402 and Case No. 10403 provide direction for future tariff filings and should not be construed to impact this pending proceeding.

On April 17, 1989, a prehearing conference was held for the purpose of identifying any remaining issues to be presented at a hearing in this matter. Attorneys for South Central Bell and MCI, as well as Staff counsel, were present. Staff counsel represented to the parties that Staff had advised the Commission that it would have no further cross-examination of any witnesses if a hearing in this matter were held. South Central Bell counsel represented

¹ Case No. 10402, The Tariff Filing of South Central Bell Telephone Company to Restructure and Reprice Its 1.544 Megabit Service, Order dated April 10, 1989.

Case No. 10403, The Tariff Filing of South Central Bell Telephone Company to Restructure Its Lightgate Service Tariff, Order dated April 10, 1989.

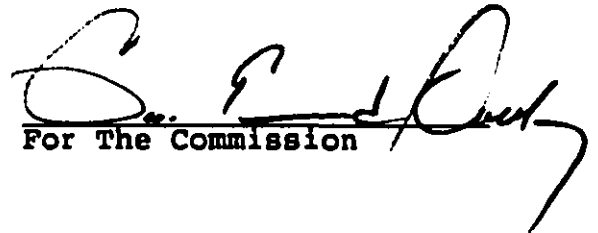
that it would forego a hearing and have the matter submitted to the Commission for decision on the current record. MCI counsel filed a letter on April 19, 1989 stating that it was willing to forego a hearing if the Commission would permit parties to file briefs in this matter.

The Commission, having considered whether to conduct a hearing and being sufficiently advised, is of the opinion and finds that the hearing currently scheduled for April 20, 1989 is not necessary and should be cancelled. Accordingly, MCI's motion to reschedule the hearing filed March 21, 1989 is rendered moot. Further, parties wishing to file briefs should do so by no later than April 28, 1989.

BE IT SO ORDERED.

Done at Frankfort, Kentucky this 20th day of April, 1989.

PUBLIC SERVICE COMMISSION


For The Commission

ATTEST:

Executive Director